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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,832	08/25/2006	Milton S. Soditch	026032-4966	8083
23428 7590 04/27/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER NELSON JR, MILTON				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
04/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/557,832

Applicant(s)

SODITCH ET AL

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-27, 29 and 37 is/are allowed.
- 6) ☒ Claim(s) 30-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/22/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 30, 2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-32 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 recites the limitation "the leg member" in line 15. There is insufficient antecedent basis for this limitation in the claim.

In claim 31, it is unclear if "a leg member" is intended to be the same as that referred to in claim 30.

In claim 32, it is unclear if "a leg member" is intended to be the same as that referred to in claim 30.

The last three lines of claim 36 are redundant in that only limitations that are previously set forth (see claim 33) are included.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "5". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant's substitute specification filed November 11, 2005 is objected to as being replete with grammatical errors and other informalities. Examples are as follows:

In line 6 of paragraph 0006, the recitation "is moved closer to an position" is grammatically incorrect.

In lines 15 to 16 of paragraph 0006, the recitation "connected to the leg member for a rotating leg member from a deployed position" is grammatically incorrect.

In line 19 of paragraph 0006, the recitation "is locked in stored position" is grammatically incorrect.

In line 3 of paragraph 0007, the recitation "comprises a seat back configured to mounted in the vehicle" is grammatically incorrect.

In line 2 of paragraph 0023, the reference to "FIGURE" is unclear since it is not indicated which figure is being referred to. Similarly note line 1 of paragraph 0025.

In lines 10 to 11 of paragraph 0025, the recitation "It is also contemplated that 2 separate mechanism may be used" is grammatically vague.

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required because of the large number of informalities presented in the substitute specification filed November 11, 2005.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive

characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

The substitute specification filed must be accompanied by a statement that it contains no new matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al (7040702) in view of Kusterle (1876010).

The primary reference shows all claimed features of the instant invention with the exception of a biasing member for biasing the leg in a direction opposite the direction that the cable retracts the leg and leg member (claims 33 and 34); wherein the biasing member is a spring having a first end engaging the leg member and a second end engaging the seat base (claims 35 and 36). In the primary reference, note the seat back (11), seat base (14), leg (17) including a leg member, and cable (43).

The secondary reference teaches configuring the leg of a furniture assembly with a biasing member (spring 26) for biasing the leg in a direction opposite a direction that the leg retracts to a position adjacent the furniture assembly. It can be seen that the spring engages the leg at a first end, and a base of the furniture assembly at a second end.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to incorporate the biasing member for biasing the leg in a direction opposite the direction that the cable retracts the leg and leg member (claims 33 and 34); wherein the biasing member is a spring having a first end engaging the leg member and a second end engaging the seat base (claims 35 and 36). This modification eases selective movement of the leg and leg member from the retracted position to the support position, while maintaining the capacity for the leg and leg member to be selectively moved to the retracted position upon seat base retraction. This modification is representative of applying a known technique to a known device that is ready for improvement to yield predictable results.

Allowable Subject Matter

Claim 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 31-32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 21-27, 29 and 37 are allowed.

Response to Amendment/Arguments

Applicant's response has been fully considered. Remaining issues are described in the above sections. Reconsideration of claims 33-36 in view of the newly cited prior art reference Kusterle (1876010) has necessitated a withdrawal of the previous indication of allowable subject matter in these claims. Note the rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton Nelson, Jr./
Primary Examiner, Art Unit 3636

mn
April 25, 2009